Forest Practices Code Transition Primer for Woodlot Licences

Contains Important Information on Changes to *the Forest Practices Code of BC Act* and the Woodlot Licence Forest Management Regulation

FOREST SERVICE
BRITISH COLUMBIA

Introduction

In its New Era document, Government promised to streamline the Forest Practices Code (FPC) to establish a "results-based" forest planning and practices framework, with tough penalties for non-compliance.

Under the revised framework, government and industry resource professionals will focus on results and resource protection rather than process and paperwork. Government will set objectives and desired outcomes, and forest tenure holders will propose results or strategies to achieve government objectives. The forest tenure holders are then accountable for the results through a rigorous government compliance and enforcement regime.

Two Stages of Transition

Forest management in BC is changing from a prescriptive regime under the Forest Practices Code of BC Act to a "results-based" regime under the *Forest and Range Practices Act*. This is happening in two stages:

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- The *Forests Statutes Amendment Act (No. 2) 2002* was given Royal Assent on November 26, 2002 and makes amendments to the existing Forest Practices Code. These amendments came into force on December 17, 2002 and provide some immediate efficiencies and streamlining in planning and practices.
- The *Forest and Range Practices Act (FRPA),* is scheduled to come into force in April 2003, and will replace the *Forest Practices Code of BC Act.* The *Forest and Range Practices Act* will create a new forest management planning and practices framework. Associated regulations will be developed to support this legislation, and will come into force at the same time.

This Primer only deals with the amendments to the *Forest Practices Code of BC Act* and the Woodlot Licence Forest Management Regulation.

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What is the "Forest Practices Code Transition Primer for Woodlot Licences"?

This Forest Practices Code Transition Primer for Woodlot Licences outlines the major changes to the *Forest Practices Code of BC Act* resulting from the *Forests Statutes Amendment Act (No. 2) 2002* and consequential amendments to the Woodlot Licence Forest Management Regulation.

The objective is to provide a common message and consistently high level of understanding of the most important amendments to the *Forest Practices Code of BC Act* and Woodlot Licence Forest Management Regulation so that woodlot licence holder, consultants and Forest Service staff are aware of the new legal requirements. This document does not provide information on all the changes to the *Forest Practices Code of BC Act* and Woodlot Licence Forest Management Regulation. It is not a substitute for careful review of Bill 75 and Schedule K of the Order in Council that made amendments to the Woodlot Licence Forest Management Regulation. These documents can be obtained from the following website: http://www.for.gov.bc.ca/RTE/woodlots/woodlot-legislation.htm

Changes to the Forest Practices Code

"Governm... wanted to capture efficiencies immediately where possible."

Amendments to the *Forest Practices Code of BC Act*

Amendments to the *Forest Practices Code of BC Act*, introduced through the *Forests Statues Amendment Act (No. 2) 2002,* come into force on December 17, 2002, and should continue to apply until a woodlot licence holder receives district manager approval of a Woodlot Licence Plan under the *Forest and Range Practices Act.* These amendments implement changes as part of the transition to a results-based approach that will be in place under the FRPA.

Key changes include automatic extensions of WL forest development plans that expired between December 17, 2001 and December 17, 2002, or are due to expire before April 1, 2005. These forest development plans will be automatically extended to April 1, 2005, to allow woodlot licence holders time to develop a new Woodlot Licence Plan under the *Forest and Range Practices Act.* District manager review and approval of WL site plans will continue until a WL holder receives approval of a new Woodlot Licence Plan. Once a WL holder receives approval of a new Woodlot Licence Plan under the *Forest and Range Practices Act,* additional site plans will not be required for new cutblocks.

District manager approval will no longer be required for specified[1] minor amendments to forest development plans, silviculture prescriptions or site plans. Other government resource agencies will no longer review FDPs or FDP amendments. Minor forest development plan amendments that do not require the approval of the district manager do not need to be advertised or undergo review and comment. Forest development plan amendments that require the approval of the district manager will only need to be advertised for public review and comment if written comments were received from the public prior to the original approval of the FDP.

[1] See WLFMR section 24.1 for a list of amendments that can be made to operational plans without DM approval.

The preparation of road layout and designs will not be required except in 3 relatively rare circumstances where district manager approval of the road layout and design will be required. Deactivation prescriptions are no longer approved by the district manager and are only required for road deactivation on areas with unstable or potentially unstable terrain. Deactivation prescriptions for areas with unstable or potentially unstable terrain must be prepared by a qualified registered professional.

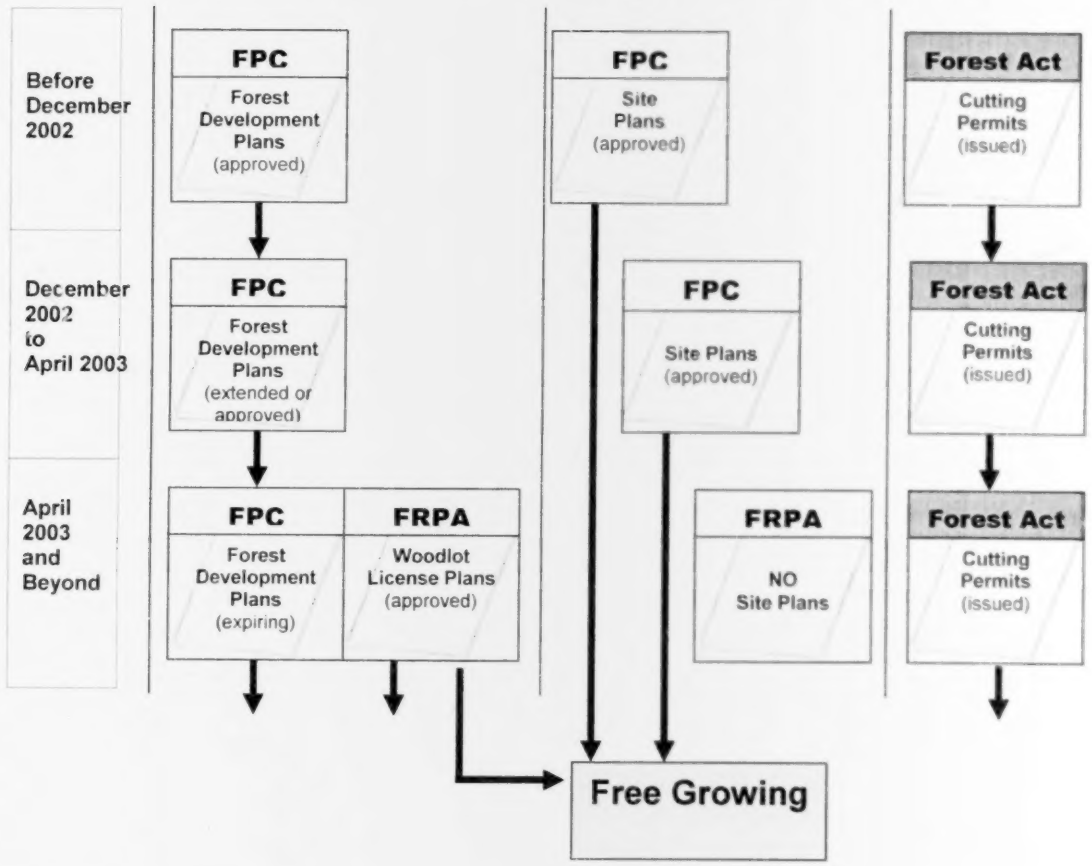
Some of the additional changes to practice requirements are listed at the end of this document.

Woodlot Licence Planning and Practices

What are the changes in December 2002?

The following graphic illustrates the transition in the planning framework for woodlot license holders. Details on plans under the *Forest and Range Practices Act* will be covered in future training programs (Spring 2003).

Woodlot Planning Framework



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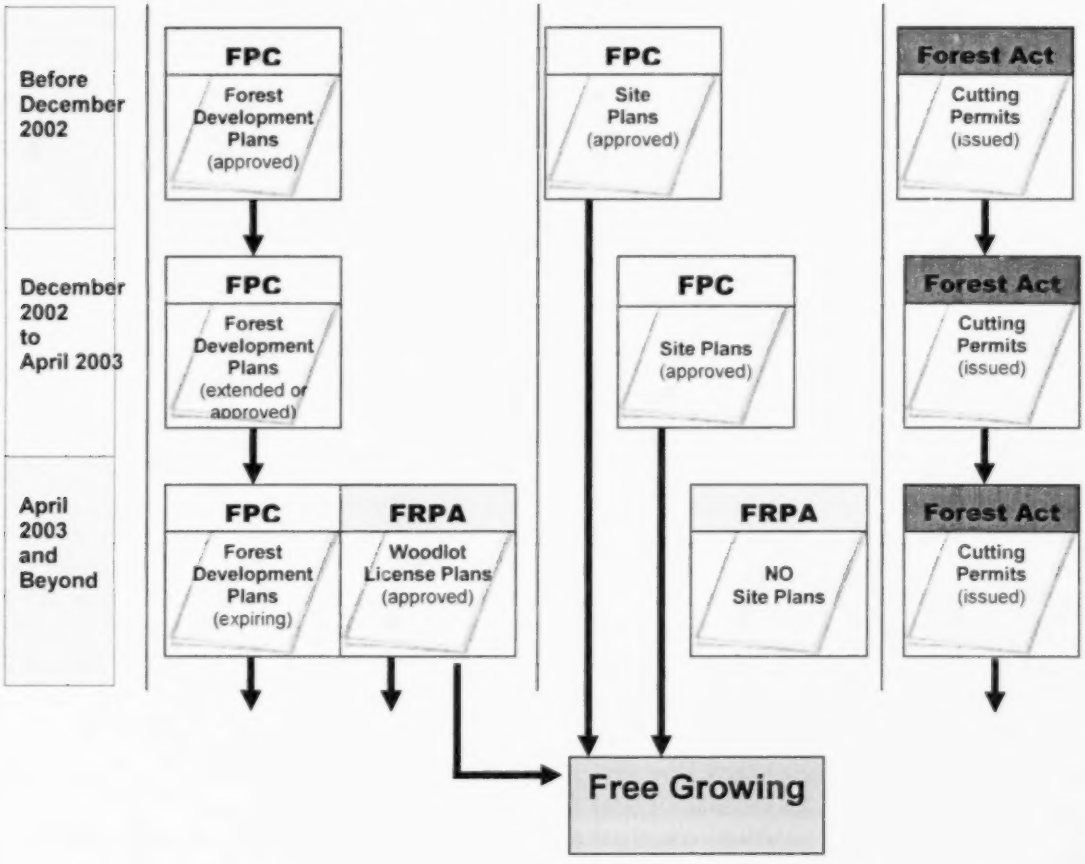

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How Woodlot Licence FDPs are Affected

Woodlot FDPs are affected by amendments to Section 19 of the *Forest Practices Code of BC Act.*

Woodlot FDPs that expired in the last year, or are due to expire before April 1, 2005 are automatically extended to April 1, 2005

All woodlot licence FDPs that are in effect[2] on December 17, 2002, and are due to expire before April 1, 2005, are automatically extended to April 1, 2005. A woodlot FDP that is due to expire after April 1, 2005, will remain in effect until the expiry date specified in the FDP approval letter unless the WL holder decides to replace the FDP with the approval of a new Woodlot Licence Plan. For example, a woodlot FDP that is due to expire in 2010 could continue in effect until 2010.

Woodlot licence FDPs that expired,[3] any time between December 17, 2001, and December 17, 2002, are also automatically extended until April 1, 2005. The ability to extend a woodlot FDP for up to one year has been eliminated with the amendment to section 19(4) of the FPC Act.

The automatic extensions of FDPs will allow WL holders to continue to operate under their approved FDPs before they need to prepare and obtain approval of a new Woodlot Licence Plan under the *Forest and Range Practices Act.* Woodlot licence FDPs that have been automatically extended do not need to be amended to meet the current requirements of the *Forest Practices Code of BC Act* and regulations, and they can be amended to propose additional harvesting and roads. Once the district manager approves a new Woodlot Licence Plan under FRPA, the approval automatically cancels any FDP that may be in effect.

Minor Operational Plan Amendments

A new Section 42.1 of the *Forest Practices Code of BC Act* allows certain specified minor operational plan amendments to be made without district manager approval.

Section 24.1 of the Woodlot Licence Forest Management Regulation (WLFMR) specifies a list of amendments that can be made to an FDP, silviculture prescription or site plan without requiring district manager approval. A copy of the amendment must be submitted to the district manager. FDP amendments not requiring district manager approval are not required to be advertised or undergo review and comment. An amendment to WLFMR section 22(2) also eliminates the need for an RPF signature and seal on an amendment to a silviculture prescription or site plan that changes the areas of a harvested cutblock as a result of a more accurate field traverse.

All minor amendments to operational plans that can be made without district manager approval must meet the following criteria:

- the amendment must meet the requirements of the FPC Act and regulations including any requirements to be signed and sealed by a registered professional forester,
- the amendment must not materially affect the likelihood of achieving the objectives or results specified in the plan or prescription, and
- the amendment must not increase the adverse impact on forest resources.

[2] FDPs that are in effect include FDPs that have yet to reach the expiry date specified in the FDP approval letter or have yet to reach the end date of an extension of the FDP under FPC 19(4).

[3] FDPs that expired would include FDPs where the term of approval specified in the FDP approval letter has expired and the FDP was not extended, or FDPs that were extended and the period of extension has expired.

A cutting permit or road permit must authorize any additional harvesting or road construction that results from an operational plan amendment without district manager approval.

Provisions in WLFMR section 24.2 allow the district manager to suspend operations on an area if an amendment is made to an operational plan without district manager approval and the district manager determines that the amendment does require approval or is unacceptable based on the criteria in the FPC Act and the WLFMR.

Reduced FDP Content Requirements

Amendments to sections 10 to 13 of the WLFMR reduce the content requirements for woodlot licence FDPs. Examples of reduced FDP content include:

- Elimination of requirements associated with green-up and maximum cutblock size,
- Modification of the requirement for a comprehensive strategy for wildlife tree retention, and
- Reduction in the number of forest resource values that require measures to protect [see WLFMR section 11(8)].

Harvesting of Bark Beetle Infested Timber

The term "**harvesting of bark beetle infested timber**" has been re-defined to include bark beetle-killed timber from which beetles have left in addition to trees that are currently infested with larvae or adult bark beetles. This change allows increased opportunity for FDP and site plan exemptions for road construction and harvesting to deal with bark beetle infestations on woodlot licences.

Site Plans for Woodlot Licences

Woodlot Licence holders must continue to prepare site plans (under the WLFMR), and have them approved by the district manager. Once a Woodlot Licence Plan is approved under the FRPA, site plans will not be required for new cutblocks on woodlot licences. District managers can continue to grant site plan exemptions based on WLFMR sections 14(1) and 22.01(2). The new requirements for (non-approved) site plans for major licensees do **not** apply to woodlot licences.

Backlog Silviculture Prescriptions Eliminated

The definition of a "backlog area" has been repealed. Backlog silviculture prescriptions are no longer required and existing backlog silviculture prescriptions are no longer in effect under the *Forest Practices Code of BC Act*.

Road Requirements for Woodlots and CFAs

Woodlot licensees do not need to prepare road layout and designs unless DM approval is required under WLFMR 43(3). Road layout and design approval is required in the same situations as for major licensees – when the road is proposed to be located:

Woodlot licensees do not need to prepare road layout and designs unless District Manager approval is required; that is, in the same situations as those for major ..

- in a riparian reserve zone or riparian management zone, (other than at a crossing);
- within 100m upslope of a known licensed community water supply intake; or
- on unstable or potentially unstable terrain where design measures will not result in the least likelihood of a landslide.

Section 41.1(2) of the WLFMR exempts woodlot and CFA holders from the new requirement of Section 60(3) of the *Forest Practices Code of BC Act* to make road layout and designs publicly available.

Sections 44 to 57 of the WLFMR have been repealed and replaced with wording the parallels sections 4 to17 of the Forest Road Regulation. WL holders must comply with these new road requirements when constructing, modifying, maintaining or deactivating roads on Crown land.

Practice Requirements in Woodlots and CFAs

Amendments to section 35 of the WLFMR eliminate the requirement for agreement of a designated environment official before harvesting, felling or modifying trees in a riparian reserve zone. District manager approval or authorization is still required in almost all instances before harvesting, felling or modifying trees in a riparian reserve zone (see WLFMR section 35 for exceptions).

A new section 62.01 of the WLFMR provides authority to construct excavated or bladed trails on areas covered by both a site plan and a cutting permit as long the requirements of WLFMR sections 13.1 and 60 to 62 are met and constructing the trail does not result in the maximum limit for soil disturbance being exceeded. Section 13.1 requires a terrain stability field assessment before constructing an excavated or bladed trail on a "sensitive slope". Sections 60 and 61 contain prohibitions and restrictions on constructing excavated or bladed trails on sensitive slopes where the terrain stability field assessment indicates a moderate or high likelihood of landslides. Section 62 requires excavated or bladed trails to be constructed and rehabilitated in a manner that minimizes negative environmental impacts.

An amendment to section 68 of the WLFMR eliminates the requirement to be authorized by the district manager before constructing a temporary stream crossing. All other requirements with respect to temporary stream crossings continue to apply. These requirements include

- conforming with timing windows and measures made available by the DEO if the temporary crossing is located on a fish stream,
- protecting the stream channel and bank immediately above and below the crossing,
- removing the temporary crossing at the completion of harvesting or as directed by the district manager.

Section 81(12) of the WLFMR contains the new description of what constitutes a countable conifer for purposes of maximum density (the new criteria are the same as those that apply to major licensees).

Section 88 of the WLFMR has been amended so that regeneration assessments are no longer mandatory by the regeneration date. The DM can require a silviculture survey if there is reasonable evidence to suggest that regeneration date stocking has not been established or maintained. A WL holder can be exempted from the requirement to complete a free growing survey if the district manager is satisfied that a free growing stand has been established on an area and the WL holder provides a map with required silviculture and inventory information.

Sections 88.1 has been added to the WLFMR to create new provisions associated with making free growing declarations under the new Section 162. 1 of the *Forest Practices Code of BC Act*. Sections 88.2 has been added to the WLFMR to create new provisions associated the district manager providing relief or funding under the new Section 162.2 of the *Forest Practices Code of BC Act* if an area with an obligation to establish a free growing stand is damaged by an event (e.g. by a wildfire that was not caused by the WL holder).

Other Changes in the Legislation

WLFMR section 3(2) states that the new Operational and Site Planning Regulation, the revised Forest Road Regulation and new combined Timber Harvesting and Silviculture Practices Regulation do not apply to woodlot licence holders.